

APPROVED: MEETING NO. 49-85

ATTEST: *Helen M. Heneghan*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
MEETING NO. 47-85

October 14, 1985

The Mayor and Council of Rockville, Maryland, convened in executive session in the City Manager's Conference Room, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, October 14, 1985, at 7:30 p.m.

PRESENT

Mayor Viola D. Hovsepian

Councilman Steve Abrams

Councilman Douglas Duncan

Councilman Peter Hartogensis

Councilman John Tyner, II

The Mayor in the Chair.

In attendance: Acting City Manager Daniel Hobbs, City Clerk Helen Heneghan, City Attorney Paul Glasgow.

The Mayor and Council convened in executive session for consultation with legal counsel and to discuss personnel.

Re: Adjournment

There being no further business to come before the Mayor and Council in executive session the meeting was adjourned at 7:55 p.m.

The Mayor and Council of Rockville, Maryland convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, October 14, 1985, at 8:05 p.m.

PRESENT

Mayor Viola D. Hovsepian

Councilman Steve Abrams

Councilman Douglas Duncan

Councilman Peter Hartogensis

Councilman John Tyner

The Mayor in the Chair.

In attendance: Acting City Manager Daniel Hobbs, City Clerk Helen Heneghan, City Attorney Paul Glasgow

Re: City Manager's Report

Mr. Hobbs reported the following:

1. On the agenda this evening there is a resolution, a specific staff follow up to the Mayor and Council meeting with the residents of Lincoln Park on September 28. A consensus from the neighborhood about a course of action was reached at that time.

2. Last Wednesday evening an information briefing on municipal government was held for the candidates for the office of Mayor and Council. Included in the two hour meeting was a showing of the Rockville Municipal Services Slide Show.

3. On October 15, sixteen high school students from Pinneberg and two teachers will be arriving in Rockville as guests of the Sister City Task Force, until November 2. The Task Force has arranged for housing with families from Richard Montgomery High School. They have planned trips to Williamsburg, Baltimore, Philadelphia, and Lancaster as well as Washington D.C.

4. The City Clerk reported that there are 9,466 registered voters in the City at this time. That represents an increase of 343 since the 1984 election.

Councilman Hartogensis commented how pleased he is with the new computer system and the operators of the system. This is indicated by the fast turnaround time in requests for lists of registered voters.

Councilman Tyner asked if there is any new information on the Svenholm case. Mr. Hobbs said the staff is now inventorying the property and taking bids from contractors for removal of the debris.

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Councilman Abrams asked if there was any information on the fire at the Maryvale School site. Mr. Hobbs said three of the seven units were destroyed and the possibility of arson has been mentioned.

Re: Appointments

Mayor Hovsepian made the following appointment. It was confirmed by the Council:

Sister City Task Force: Yahna Ripley - appointed - two year term
839 Bowie Road

Re: Proclamation:
Businesswomen's Week

Proclamation No. 16-85

There being no objection from the Council, Mayor Hovsepian proceeded to issue Proclamation No. 16-85, proclaiming the week of October 20-26 as Rockville Businesswomen's Week. Councilman Abrams read the proclamation at the request of the Mayor in which it was urged that all citizens join in this salute to working women by encouraging and promoting the celebration of their achievements.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. Charles L. Short, re announcement of R. Spector appointment
2. Richard H. Rubin, re pike downzoning
3. A. Kalica, H/S Civic Association, re neighborhood issues & response
4. N. Stoer, Potomac Springs Civic Association, re neighborhood issues & response
5. Del. Gordon, re Pike traffic flow
6. NLC, re annual report
7. COG, re AIDS Conference

Mayor Hovsepian asked if the Council cared to contribute. It was agreed this could be discussed under new business.

8. Congressman Barnes, re CDBG

Re: Information Items

The Mayor and Council noted the following items of information:

1. Memo from PIO re Candidates' Forum 11/1/85 at City Hall

Councilman Abrams asked if this requires action on the Mayor and Council's part. It was the consensus of the Council that there is no objection to a candidates' forum being held at City Hall.

2. Copy of letter from D. Horne to 7-11 requesting cooperation
3. Information from PW on lighting repair on pedestrian bridge on Frederick Avenue
4. Analysis of Rockville Facility Right-ofway (9/19/85) by Director of Planning
5. CDHA Project report
6. Memo from CDHA re meetings with Monroe/Lynfield Neighborhood
7. Memo from City Manager re North Rockville School site disposition Procedures

Councilman Duncan suggested that the staff pursue alternative 3, which is an attempt to persuade the County to convey the property to the City for little or no cost on the condition that it will be maintained as open space and made available to Montgomery College for use as a laboratory and as a fall back position the staff pursue a long-term lease at a nominal cost.

8. Memo from CDHA re District Court Parking
9. Information on Invitation for Bid #21-86, Senior Center Boilers
10. Final report on 1985 Rockville Youth Employment

Councilman Tyner suggested the staff use the recommendations in this memo as a part of next year's budget request since the program is more of a success every year. Councilman Abrams asked at the same time the staff consider lengthening the recreation program.

11. Annual Report for 1985
12. Senior Center Newsletter
13. Information on Contracting Problem at 317 Bradley Avenue
14. Memo from Community Resources re Youth Problems
15. Information on history of Boundary Changes in Rockville
16. Copy of letter from W. Sullivan re traffic

17. Copy of letters to Superintendent of Schools re Area 2 recommendations
18. Copy of letter to Forester from citizen

Councilman Hartogensis noted that although this letter is not from a resident in the area where the trees are being replaced, his suggestion should be worked into next year's budget. The Council agreed to this.

19. Copy of complaint to Tribune United from citizen
20. Memo re County Position on Hotel/Motel Tax Bill

Councilman Hartogensis asked if he could be kept apprised since it is important to receive the City's fair share.

21. Memo from Community Resources on T.E.A.C.H.
22. Memo from City Attorney re Westmont suit settlement

Councilman Hartogensis noted that the City was not a party to this settlement since in no way would the City compromise its ordinances.

23. Memo from CDHA re Town Center Hotel progress

Councilman Abrams asked if the formal ground breaking will be the 29th of October. He would like more information since he has looked forward to this for a long time.

24. Economic Update
25. Memo from City Attorney re Silverman v. Animal Control Board
26. History of ethics ordinance language re representation in Court
27. Report from Science & Technology Commission on Energy Recovery Facility

Councilman Tyner asked if the Science and Technology Commission would draft a letter from the Mayor to the County Executive on this subject. He also asked for more information on the background and the federal standards noted in the letter.

28. Memo on buses for senior services programs

Councilman Tyner suggested this information be included in the budget next year along with the information on the possibility of selling the larger bus.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council:

1. Joseph Lynott, 51 Monroe Street. Mr. Lynott addressed the Council on Text Amendment T-72-85, which is on the agenda this evening for preliminary review. He noted that the idea for the text amendment originated with the City Manager and the Planning Director in June of 1985 and read from a letter referencing the matter. He asked the Mayor and Council to accept it.

2. Richard Resnick, 953 Farm Haven Drive. Mr. Resnick protested the City's position concerning Woodward High School and attempted to clarify the assignment of the North Farm students to the Woodward Cluster. He noted the neighborhood's concerns with the treatment by the City and nonrepresentation on the Commission and no consideration by the staff. He asked if the North Farm Community be included in all discussions regarding school boundaries and articulation.

There being no other citizen wishing to address the Mayor and Council, the Mayor closed the citizen's forum portion of the meeting.

Re: Public Hearing: Use
of CDBG funds FY 87

The Mayor and Council conducted a public hearing on the use of CDBG funds for FY 87 and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other citizen wishing to be heard, the Mayor declared the hearing closed with the record to be held open until October 18.

Re: Public Hearing: Placement
of 2.00 acres of land at
the southwest corner of
Westmore Road and Westmore
Avenue, subject of Annexa-
tion Petition, X-96-85, in
the I-1 Industrial Zone

The Mayor and Council conducted a public hearing on the placement of two acres of land at the southwest corner of Westmore Road and Westmore Avenue, subject of Annexation Petition, X-96-85, in the I-1 Industrial Zone and heard

those persons as will be found in the official stenographic transcript of the hearing. There being no other citizen wishing to be heard the Mayor declared the hearing and record closed, the record to be included in the entire hearing record of X-96-85.

Re: Public Hearing: Placement
of two adjacent properties
on the southwest side of
Darnestown Road, opposite
Research Boulevard, and
the subject of Annexation
Petition, X-97-85, in the
O-1 Zone

The Mayor and Council conducted a public hearing on the placement of two adjacent properties on the southwest side of Darnestown Road, opposite Research Boulevard, and the subject of Annexation Petition, X-97-85, in the O-1 Zone, and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other citizen wishing to be heard, the Mayor declared the hearing closed, the record to be made part of the entire record of Annexation Petition, X-97-85, and to be held open until Monday, October 21, at 5:00 p.m.

Re: Resolution: To make a
Tentative Finding that a
Slum and Blighted Area
Exists at - 114 Frederick
Avenue

Resolution No. 28-85

On motion of Councilman Abrams, duly seconded and unanimously passed, Resolution No. 28-85, the full text of which can be found in Resolution Book No. 8, making a tentative finding that a slum and blighted area exists at 114 Frederick Avenue, was adopted by the Mayor and Council.

Councilman Abrams suggested that the staff pursue discussions with the owner for the purchase of the property while the urban renewal process is continuing in order to speed the progress. Councilman Hartogensis asked if the

subject property is eligible for CDBG Funds. Mr. Duffy explained not this year. Councilman Tyner asked at the same time, staff be preparing information for the Council on what would be appropriate for that site.

Re: Adoption of Resolution of the Mayor and Council of Rockville, adopted pursuant to Article XI-E of the constitution of MD, and the Charter of the City of Rockville, as amended, to amend Section 5 of Article III of the Charter, so as to provide that a vacancy occurring in the office of the Mayor within the first 16 months of the term shall be filled by special election, and that a vacancy occurring in the office of the Mayor after the first 16 months of the term shall be filled by the unanimous vote of the Council or if the Council cannot unanimously agree, the vacancy shall be filled by designated councilmembers

Resolution No. 29-85

Councilman Abrams moved, duly seconded that this resolution be adopted deleting all wording after special election.

Councilman Duncan said he prefers the phrase referring to the highest vote getter on the Council.

Councilman Hartogensis suggested that the 14 day waiting period for unanimous agreement should be deleted. After further discussion, Councilman Abrams agreed to withdraw his motion. Councilman Duncan, the seconder agreed.

On motion of Councilman Abrams, duly seconded and unanimously passed, Resolution No. 29-85, the full text of which can be found in Resolution Book No. 8 of the Mayor and Council, amending the Charter of the City, Charter Amendment No. 45 providing for the filling of vacancy occurring in the office of Mayor within the first 16 months of the term, was unanimously adopted.

Mayor Hovsepien suggested that the Council begin thinking of a Charter Amendment to fill a vacancy on the Council. Councilman Abrams said he recalled no interest in the referendum last election concerning the filling of a

Councilmember vacancy. He would prefer not to pursue it. Councilman Duncan agreed. He agreed that the citizens saw a difference in the selection of a Mayor as opposed to a Councilmember.

Re: Adoption of a Resolution of the Mayor and Council of Rockville adopted pursuant to Article XI-3 of the Constitution of Maryland, and the Charter of the City of Rockville, as amended, to amend Section 5 of Article III of the Charter, so as amended, to amend a vacancy occurring in the office of the Mayor within the first 16 months of the term shall be filled by special election and that a vacancy occurring in the office of the Mayor after the first 16 months of the term shall be filled by the unanimous vote of the Council or if the Council cannot unanimously agree, the vacancy shall be filled by designated officials and if no such official can or will serve, then such vacancy shall be filled by majority vote of the Council

On motion of Councilman Duncan, duly seconded and unanimously passed, a Resolution of the Mayor and Council amending the Charter providing for an alternative method of filling a vacancy in the office of the Mayor with designated officials was denied by the Mayor and Council.

Re: Adoption of Ordinance: To Amend Chapter 15 of the Laws of Rockville entitled "Ethics Provisions" to make it substantially similar to the Maryland Public Ethics law and to add an additional provision providing for the removal of certain officials for failure to file financial disclosure statements

Ordinance No. 28-85

On motion of Councilman Duncan, duly seconded and unanimously passed, Ordinance No. 28-85, the full text of which can be found in Ordinance Book

No. 12 of the Mayor and Council amending the Ethics Provision to make it substantially similar to the Maryland Public Ethics law and to add an additional provision providing for the removal of certain officials for failure to file financial disclosure statements, was adopted by the Mayor and Council.

Re: Adoption of Ordinance: To
Levy Special Assessments
for Project 4C12, widening
of Brent Road

Ordinance No. 29-85

On motion of Councilman Hartogensis, duly seconded and unanimously passed, Ordinance No. 29-85, the full text of which can be found in Ordinance Book No. 12 of the Mayor and Council, to levy special assessments for Project 4C12, widening of Brent Road, was approved by the Mayor and Council.

Re: Decision: Special
Assessments for Project
OL22, widening of South
Stonestreet Avenue

Councilman Abrams moved, duly seconded, to instruct the staff to look into the possibility of before and after appraisals and report back to the Council as has been done in the Dover Road Special Assessment Project. The motion passed unanimously.

Re: Preliminary Review and
Referral of Text Amendment
Application, T-72-85, J.A.
Lynott, Applicant

The subject Text Amendment would amend Section 1-103 of the Zoning Ordinance Definitions so as to include an additional "permitted encroachment" in the setback area of all lots. The amendment would allow structural elements, such as canopies, which are designed and intended to protect vehicles and pedestrians from the elements to project into minimum setback areas.

The staff recommends that this application be accepted for processing and referral to the Planning Commission for evaluation.

On motion of Councilman Hartogensis, duly seconded and unanimously passed, Text Amendment T-72-85, was referred to the Planning Commission for further review.

Re: Review of Fletcher Place
Parking Permit District

Mr. Hobbs summarized the staff finding on the issue noting the key facts and reiterated the staff's recommendation that no change be made in the parking permit district at this time. In answer to Councilman Hartogensis' question concerning the Center moving, Mr. Pavlin, Executive Director, told of the Treatment Centers Plan to begin construction in the spring of '87 and after a 10 month construction period, take up their new location at the Shady Grove Life Services Center. He also noted that most of the problems now with parkers are students from the local high school. Mr. Premo, a resident of the neighborhood addressed the Council and told of the problems with the large number of students at Rockville High that drive and the small amount of parking.

On motion of Councilman Tyner, duly seconded and unanimously passed, the Mayor and Council agreed with the staff's recommendation to leave the permit parking district in place at this time and continue to monitor the high school students in their need for additional parking.

Re: Introduction of Ordinance:
To Revise and amend
Appropriations Ordinance
No. 29-84

On motion of Councilman Abrams, there was introduced upon the table an ordinance amending the appropriations ordinance for 1985. Said ordinance to lay over at least one week before final action is taken.

Re: Award of Contract -
Cooperative Bid for Road
Salt

The invitation for bid was issued for the purchase of Road (solar) salt for the participating jurisdictions which included the City of Rockville. Three bids were received. Based on the evaluation cited below, award was made to Morton Salt Division by Prince George's County.

The following bids were received:

Morton Salt Division Morton Thiokol, Inc., Chicago, Illinois	\$27.40/ton
Cargill, Inc., Watkins Glen, New York	\$28.38/ton
International Salt Company Clark Summit, Pennsylvania	\$28.93/ton

Morton Salt was awarded the contract as the low bidder on a firm fixed price basis. The contract was awarded to Morton Salt last year in the amount of \$27.99/ton. This year's award reflects a savings of 3% or \$590.00 based on an estimated requirement of 1,000 tons. Based on an estimated usage of 1,000 tons, the City's total estimated cost is \$27,400.00. Morton Salt Division of Morton Thiokol, Inc., has previously satisfactorily completed work for the City. The term of the contract is for six months.

It is recommended that award be made to Morton Salt Division in the total estimated amount of \$27,400.00.

On motion of Councilman Hartogensis, duly seconded and unanimously passed, the contract for Road Salt was awarded to the Morton Salt Division, in the total estimated amount of \$27,400.00.

Re: Approval of Waiver of on-
site storm water
management - 1701
Rockville Pike

This parcel of commercial land located on the southwest corner of Rockville Pike and Halpine Road is in the Cabin John Creek drainage area. Runoff from

this site is conveyed by enclosed storm drain to two branches of Old Farm Creek (a tributary of Cabin John Creek). The water enters the stream north of Montrose park and south of the former Congressional Heights Elementary School.

Though the soils on this site are suitable for infiltration practices, the slope of the lot restricts good conveyance to achieve infiltration by gravity. The impervious area involved with this request is 1.21 acres

The storm drains in this area are capable of accepting the additional runoff from this site and conveying it to the proposed SWM facility at Montrose Park and the existing Montgomery County SWM facility at Bnai Isreal of Washington.

It is recommended that the SWM waiver be granted for this site and that a contribution of \$26,200 (1.31 @ \$20,000 per acre) toward the City's off-site SWM program be accepted.

Councilman Tyner expressed his disappointment in the lack of information provided since he is concerned with the impact this development could have on that area. He asked in the future the staff provide to the Mayor and Council the proposed density on the site when a storm water management waiver comes before them. The Acting City Manager suggested this item be postponed in order to provide further information. Councilman Tyner said that would be unnecessary.

On motion of Councilman Abrams, duly seconded and unanimously passed, the storm water management waiver was granted and a contribution of \$26,200 was accepted.

Re: Approval of Waiver of on-site storm water management - 1700 Block, Congressional South Hotel

A SWM waiver was previously granted for part of this parcel of commercial land located along the west side of the 1700 Block of Rockville Pike. The

developer has now expanded the size of the redevelopment to 4.48 acres and is requesting a waiver for the additional 1.5 acres.

This site is in the Cabin John Creek drainage area. The runoff from the site is conveyed by enclosed storm drains to Old Farm (a tributary of Cabin John Creek) south of the former Congressional Heights Elementary School. The soils on this site are unsuitable for infiltration practices. The intensive development planned for this site makes detention methods of SWM impractical.

The developer is in the process of installing a larger storm drain system from this site to the storm drains on Rollins Avenue, and from the City line through 1776 Plaza to the Montgomery County storm drains on Jefferson Street. This will provide safe conveyance of storm water runoff in Old Creek to an existing Montgomery County SWM facility on Old Farm Creek at Bnai Isreal of Washington. This facility has the capacity to control the additional runoff.

At the \$20,000 per acre rate the contribution for the additional 1.5 acres of this site would be \$30,000. It is recommended that the requested waiver be granted for the additional 1.5 acres and that a contribution of \$30,000 be accepted for the City's off-site SWM program.

Councilman Tyner noted that the developer of this particular property has spoken to the residents of Bethany House and has been inconsistent in describing his plans. He asked that this information be passed on to the applicant.

On motion of Councilman Hartogensis, duly seconded and unanimously passed, the storm water management wavier was granted and a contribution of \$30,000 was accepted.

Re: Approval of request of
Chamber Music Ensemble to
use F. Scott Fitzgerald
Theatre

The Maryland Chamber Ensemble was previously given permission to use the F. Scott Fitzgerald Theatre and the \$2,280 total costs waived. Since the request

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was not formally received by the Mayor and Council it is being reviewed by them this evening. Rosemary Dyer, a member of the Ensemble addressed the Council and gave them the history of the group and its request to appear in Rockville and become a part of the community. Marilyn Scott, Chairman of the Cultural Arts Commission, spoke to the Council and explained the groups original request was for \$22,000 and use of the theatre and asked that members of the subcommittee of theatre use speak. Mr. Keith Fisher, Cultural Arts Commission, briefed the Council on the request of the theatre ensemble and said that the Cultural Arts Commission had no opportunity to review the amended proposal for 10% of the cost and is most concerned with procedure and precedent that is being set since there is no basis for choosing this group over the multitude of others that request the use of the theatre. He felt they did not qualify for the Rockville public group requirement of '60 percent membership of Rockville residents.'

Councilman Abrams noted that the Commission has a problem with the process and he can appreciate that but now would like to have the commission review the proposal on its merits. After further discussion it was agreed that the Cultural Arts Commission would meet with the members of the Chamber Ensemble in order to bring back a recommendation to the Mayor and Council. It will be on the agenda of the Mayor and Council on October 28 for a decision. At the same time Mayor Hovsepian asked the Cultural Arts Commission to prepare some guidelines that the Mayor and Council can use for developing policy for public/private groups use of the theatre.

Re: Work Session - Cable
Television

The Acting General Manager, Tom Lacey of Tribune United addressed the Mayor and Council with Dan Liberatore and Pat Brown of Tribune United. They gave the Mayor and Council a status report which included the availability of service including multiple dwelling units and undergrounding neighborhoods; technical

issues; services such as responsiveness to phone calls and missed appointments; and safety equipment. Mr. George Rose, Montgomery County Office of Consumer Affairs then addressed the Council on cable TV from the consumer's view point. The Mayor and Council thanked all present this evening for their attention to the problems that cable has generated for some of the citizens.

Re: New Business

1. Mayor Hovsepian asked the Council if they care to contribute to the Council of Government's Aids Conference. Councilman Abrams asked that the staff get more information from the Council of Governments on what jurisdictions are contributing and how much so that the City might pursue this. The Council agreed.

2. Councilman Hartogensis asked that a response be prepared to Mr. Resnick's allegations made this evening. Councilman Abrams asked that the membership on the Public Education Advisory Commission be expanded to include representation from all schools that serve Rockville students.

3. Councilman Abrams said the crown vetch ground cover that was planted at Fallsmead way is not working out and is overgrown in some areas. Councilman Duncan said the same problem has occurred on Gude Drive.

4. Councilman Abrams noted that at the last meeting he suggested there be no turns at certain hours into Watts Branch Parkway because of heavy traffic. He asked the staff's progress on this.

5. Councilman Abrams said the small businessmen are having trouble getting employees and he asked the City develop a program with an employee bank so that small businessmen might have somewhere to turn.

Re: Approval of Minutes

On motion of Councilman Duncan, duly seconded and unanimously passed, the Minutes of Meeting No. 42-85, September 9, 1985, were approved as corrected.

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Re: Adjournment

There being no further business to come before the Mayor and Council in general session, the meeting was adjourned at 11:45 p.m. to convene again in general session on Monday, October 28, 1985, or at the call of the Mayor.